

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARIO ACOSTA,

Petitioner,

v.

No. CV 19-352 RB/CG

DANIEL PETERS, et al.,

Respondents.

ORDER DENYING PENDING MOTIONS

THIS MATTER is before the Court on Petitioner Mario Acosta's handwritten letter asking for appointment of counsel, (Doc. 5), filed May 6, 2019, and Petitioner's *Motion for Hearing of Relief or Status*, (Doc. 8), filed January 6, 2020. Having reviewed the Motions and the relevant law, the Court finds the Motions are not well-taken and shall be **DENIED**.

There is no right to the appointment of counsel in a habeas corpus case. Instead, the decision whether to request assistance of counsel rests in the sound discretion of the Court. *Beaudry v. Corrections Corp. of America*, 331 F.3d 1164, 1169 (10th Cir.2003); *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir.1988). In determining whether to appoint counsel, the district court should consider the merits of the litigant's claims, the nature and complexity of the factual and legal issues, and the litigant's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir.2004). The Court has reviewed the Petition and subsequent filings in light of the foregoing factors. Petitioner appears to understand the issues in the case and to be representing himself in an intelligent and capable manner. See *Lucero v.*

Gunter, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the motion for appointment of counsel, (Doc. 5).

Petitioner also seeks a hearing on the merits of his request for relief. As Petitioner has been advised, because Petitioner is a prisoner proceeding *pro se*, the Court is obligated to conduct a preliminary screening of the Petition. See Rule 4 of the Rules Governing Section 2254 Proceedings. Requests for hearings are premature and unavailable prior to the Court's completion of its screening obligation. See *Jones v. Bock*, 549 U.S. 199, 213-214 (2007).

IT IS THEREFORE ORDERED:

(1) The handwritten letter construed as a motion for the appointment of counsel, (Doc. 5) is **DENIED**; and

(2) the *Motion for Hearing of Relief or Status*, (Doc. 8), is **DENIED** as premature.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE